

**LEGISTAR # 56832 - BODY**

DRAFTER'S ANALYSIS: Section 23.61 is created to regulate goods and services advertised online that are required to be licensed. Internet marketplaces and social media sites are increasingly used to advertise goods and services that the City of Madison or a Wisconsin state agency regulates with a license; such as tattooing, food items or tourist rooming houses. The City of Madison has an interest in ensuring compliance with both local and state laws as well as preserving the health and safety of its citizens. Under *Central Hudson Gas & Electric Corp. v. Pub. Serv. Comm'n of N.Y.*, 447 U.S. 557 (1980), the government may ban advertising by businesses that are operating illegally, such as unlicensed business where a license is required if necessary to advance the government's interest. This ordinance will provide Public Health Madison Dane County and Building Inspection an enforcement tool.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Section 23.61 entitled "Internet Solicitation of Unlicensed Regulated Businesses" of the Madison General Ordinances is created to read as follows:

**"23.61 INTERNET SOLICITATION OF UNLICENSED REGULATED BUSINESSES.**

(1) In this section:

"Internet" refers to the public worldwide computer system, which allows people to access web pages or services, including, but not limited to, Airbnb, VRBO, Facebook, social media sites and other similar services.

"Regulated business" means a business and/or individual subject to a required license issued by Public Health Madison Dane County and includes but is not limited to tourist rooming houses, retail food establishments, tattooists, and body piercers.

"Solicit" includes, but is not limited to, those circumstances where a person uses the internet in a manner and under circumstances to advertise a good or service.

"Unlicensed" means not possessing a valid Lodging license, Food and Drink license or a Tattoo/Body Piercing Establishment license issued by Public Health Madison Dane County or a valid State of Wisconsin agency license.

(2) No person shall use the Internet to solicit or advertise an active listing for an unlicensed regulated business.

(3) Any person violating this section shall be subject to a forfeiture of not less than twenty dollars (\$20) nor more than two hundred dollars (\$200). Second and subsequent violations shall be subject to a forfeiture of not less than fifty dollars (\$50) nor more than three hundred dollars (\$300)."

2. Subdivision (a) of Subsection (3) entitled "Schedule of Deposits" of Section 1.08 entitled "Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended by creating therein the following:

<u>"Offense</u>	<u>Ord. No./Adopted Statute No.</u>	<u>Deposit</u>
Internet solicitation of unlicensed regulated businesses.	23.61	\$50, 1st \$100, 2nd & sub"

3. Subsection (4) entitled "Issuance of Citations" of Section 1.08 entitled "Issuance of Citations for Violations of Certain Ordinances and Providing a Schedule of Cash Deposits" of the Madison General Ordinances is amended by amending therein the following:

<u>"Enforcement Official</u>	<u>Ordinance Chapter or Section and Title</u>
Director of Public Health Madison and Dane County or her/his designee and Police Department.	Chapter 7, Public Health; Section 9.05, Adult Entertainment Establishments; Section 23.05, Smoking Prohibited in Certain Public Areas; Section 23.12, Transient Hotels and Motels Regulated; Section 23.38, Possession of Tobacco Products by Children; Section 23.385, Sale of Tobacco Products to Children Forbidden; Section 23.44, Consumers to

"Enforcement Official	Ordinance Chapter or Section and Title
	Be Offered Selection of Containers; <u>Section 23.61, Internet Solicitation of Unlicensed Regulated Businesses.</u>
City Engineer, Street Superintendent, and Building Inspection Division Director or her/his designee.	Section 8.15, Regulating Private Use of Greenways and Park Lands; Chapter 10, Streets, Alleys, Sidewalks, and Gutters; Section 23.24(3), Damaging a City tree; <u>Section 23.61, Internet Solicitation of Unlicensed Regulated Businesses.</u>
Humane Officers.	Section 7.29, Keeping Fowl in Unacceptable Area or Manner; Section 7.30, Animal Slaughtering without Permit or in grounds and lakes or on exterior property area; Unacceptable Area or Manner; Section 7.32, Deposit of rubbish and refuse on streets, public Section 7.322, Animal Defecation on Public or Private Property Prohibited; Section 7.37(8), Accumulation of Animal Waste Prohibited; Section 7.38, Keeping Horse or Cattle Manure in Unacceptable Container; Section 8.19 Animals in Prohibited Areas; Section 8.25, Animal Trapping on Public Lands Without a Permit; Section 8.40(5), Prohibited Animal in Conservation Park; Section 8.42, Feeding Birds on Public Property Prohibited; Section 9.31, Cat License and Tags Required; Section 23.07, Unlawful Trespass; Section 23.18, Abusing Animals; Section 23.185, Harassment of Police Animals; Section 23.19, Injuring or Attempting to Injure or Destroy Wild Birds; Section 23.31(1), Permitting Animals Other than Dogs and Cats to Run at Large; Section 23.31(2), Harboring Swine; Section 23.32, Dogs or Cats Running at Large; Section 23.33, Tags Required for Animals, Failure to Quarantine; Section 23.35, Permitting Animal to Cause Injury; Section 23.39, Vaccination of Dogs and Cats Required; Section 23.49, Possession of Exotic or Wild Animals; Section 23.495, Exhibition of Certain Animals; Section 23.50, Selling, Dispensing, Giving Away or Dealing with Certain Turtles; <u>Section 23.61, Internet Solicitation of Unlicensed Regulated Businesses;</u> Section 24.04(4), Dogs Habitually Barking; Section 24.04(5), Leaving Animal in Parked Vehicle for More Than 15 Minutes; Section 25.22, Dangerous Animals Regulated; Section 25.225 Failure to License Dangerous Animals."

EDITOR'S NOTE: New bail deposits must be approved by the Municipal Judge prior to adoption. This deposit has been so approved.